

ORDINANCE _____

AN ORDINANCE relating to the Office of Professional Accountability, Office of Professional Accountability Auditor and Office of Professional Accountability Review Board; amending Seattle Municipal Code Chapter 3.28 Subchapters VII, VIII and IX; and ratifying and confirming certain prior acts.

WHEREAS, in August 2007 the City Council adopted Resolution 31009 in support of the Mayor's appointment of an expert review panel to review the City's police accountability system, which panel became known as the Police Accountability Review Panel; and

WHEREAS, the Police Accountability Review Panel concluded in its January 2008 Final Report that the general structure of the City's police accountability system should continue, but that overlapping responsibilities among and a lack of clarity in the roles of the Office of Professional Accountability (OPA), OPA Auditor and OPA Review Board undermine the effectiveness, transparency and accountability of the police accountability system as a whole; and

WHEREAS, the Police Accountability Review Panel also made 29 recommendations to strengthen the police accountability system in the areas of accountability, public confidence, independence, professional conduct and transparency; and

WHEREAS, among the major recommendations of the Police Accountability Review Panel were that the role and duties of the OPA Auditor should be clarified and expanded, that the OPA Director, OPA Auditor and OPA Review Board should agree on areas that will be the focus of enhanced review by the Auditor, and that the Review Board should be the primary link between the community and the police accountability system; and

WHEREAS, the City Council concurs with the conclusions of the Police Accountability Review Panel, intends to clarify the roles of and relationships among the OPA, OPA Auditor and OPA Review Board, and intends to implement those Panel recommendations that require or warrant amendments to Seattle Municipal Code Chapter 3.28 Subchapters VII, VIII and IX; and

WHEREAS, the City Council intends that the OPA Director, OPA Auditor and OPA Review Board work together not only in determining topics for the Auditor's enhanced review of policies and procedures, but also in supporting the Review Board's community outreach activities and in reviewing further potential improvements to the accountability system; and

WHEREAS, the City has reached a collective bargaining agreement with the Seattle Police Officers' Guild that provides for the implementation of some of the recommendations of the Mayor's Police Accountability Review Panel; and

1 WHEREAS, any provisions in the collective bargaining agreements and related memoranda of
2 agreement between the City and the Seattle Police Officers' Guild and between the City
3 and the Seattle Police Management Association that apply to the OPA, OPA Auditor or
4 OPA Review Board are binding on the Guild or the Management Association and the
City, including the OPA, OPA Auditor and OPA Review Board, and where there are any
conflicts, the relevant collective bargaining agreement and related memoranda shall
control rather than this ordinance; and

5 WHEREAS, to the extent that provisions of this ordinance pertain to terms and conditions of
6 employment that are subject to collective bargaining, this ordinance does not supersede
7 the rights of collective bargaining agents to bargain over terms and conditions of
8 employment, and those provisions will not be implemented until the duty to bargain is
discharged.

9 NOW, THEREFORE,

10 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

11 Section 1. Seattle Municipal Code Section 3.28.800 is amended as follows:

12 3.28.800 Office of Professional Accountability created – Functions and authority.

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14 There is created within the Seattle Police Department an Office of Professional
15 Accountability (hereinafter "OPA") to receive and investigate complaints of misconduct by
16 Seattle Police Department personnel. The responsibilities of the OPA include the following
17 areas: regularly advising the Chief, as well as the Mayor and City Council, on all matters
18 involving the Police Department's investigatory and disciplinary functions and on Police
19 Department policies and practices related to police accountability and professional conduct;
20 ~~((recommending policy to the Chief of Police, the Mayor, and the City Council on various issues~~
21 ~~concerning the professional standards of the Police Department;))~~ evaluating the internal
22 investigation process; and, making recommendations on strategies and policies to improve
23 complaint gathering and investigative procedures.
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27 Section 2. Seattle Municipal Code Section 3.28.805 is amended as follows:
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3.28.805 Definitions.

~~((A. "Contact Log" is a record of the receipt, review and action taken on a complaint or referral to the Office of Professional Accountability that is not assigned to the Line or OPA Investigation Section for a full investigation.))~~

~~((B. "Office of Professional Accountability Investigations Section" means the section, or any successor section or unit, of the Department responsible for investigating complaints of misconduct by Department employees;))~~

~~((C. "Line referral investigations" refers to those complaints reviewed by Office of Professional Accountability Investigations Section and referred to the subject officer's chain of command for investigation;))~~

~~((D))~~ A. "OPA complaint" refers to a complaint assigned to the Office of Professional Accountability for investigation.

~~((E))~~ B. "OPA investigation" and "complaint investigation" ~~((refers))~~ refer to an investigation of ~~((a))~~ an OPA complaint conducted by the Office of Professional Accountability.

Section 3. Seattle Municipal Code Section 3.28.810 is amended as follows:

3.28.810 Office of Professional Accountability – Director

The Director of the OPA is responsible for the investigative and administrative functions of the police disciplinary process and shall manage the overall investigative, training, and administrative functions of the OPA. The OPA Director shall:

A. Be a civilian with legal, investigative, or prosecutorial experience;

B. Be appointed by the Mayor and confirmed by the City Council;

1 ~~((C. Be appointed for a three (3) year term, with the possibility of being reappointed for a~~
2 ~~second three (3) year term, for a maximum of six (6) years;))~~

3 C. Be appointed for a three year term, with the possibility of being reappointed to a
4 second or third three year term, for a maximum of nine years.

5 D. Report directly to the Chief of Police;

6 E. Be paid at a salary consistent with the level of responsibility established in this section
7 and as provided by ordinance;

8 F. Direct the OPA investigative process, classify all complaints, certify in writing the
9 completion and recommended findings of all OPA cases, and ~~((make recommendations~~
10 ~~regarding disposition))~~ convey these recommendations to the Chief of Police~~((The Chief of~~
11 ~~Police remains the final Police Department decisionmaker in disciplinary actions))~~, who is the
12 final Police Department decision maker in disciplinary actions;

13 G. Attend employee due process hearings with the Chief of Police concerning possible
14 employee discipline resulting from OPA recommendations;

15 ~~((G))~~H. Provide analysis and recommendations to the Chief of Police regarding
16 disciplinary action in order to promote consistency of discipline~~((:))~~;

17 I. Provide recommendations to the Chief of Police, Mayor and City Council regarding
18 the resources of the OPA, including but not limited to budget and staffing; and

19 J. Provide recommendations to the Chief of Police, Major and City Council regarding
20 Police Department policies and practices related to police accountability and professional
21 conduct.

22 Section 4. Seattle Municipal Code Section 3.28.812 is amended as follows:
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3.28.812 Office of Professional Accountability – Explanations of Certain Complaint Dispositions.

~~((A. If the OPA Director and the Chief of Police disagree on the final disposition of a misconduct complaint investigation, each shall make a written explanation of the basis for the disagreement within sixty (((60))) days of the final disposition for inclusion in the OPA case file.))~~

A. If the Chief of Police decides not to follow the OPA’s written recommendation on the disposition of an OPA complaint, the Chief shall make a written statement of the material reasons for the decision. The statement shall not contain the officer’s name or any personal information about the officer. If the basis for not sustaining the complaint is personal, family or medical information about the officer, the statement shall refer to “personal information” as the basis. The Chief shall make the written statement within 60 days of his or her final decision on the disposition of the complaint.

~~B. If ((the OPA Director recommends that a misconduct complaint be sustained, but)) no discipline results from an OPA complaint because an investigation time limit specified in a collective bargaining agreement between the City and the subject employee's bargaining unit has been exceeded, within ((sixty)) 60 days of the final disposition of the complaint investigation the OPA Director shall make a written explanation of the nature of the allegations in the complaint and the reason or reasons the time limit was exceeded ((for inclusion in the OPA case file)).~~

This requirement applies whether the OPA recommends that the complaint be sustained or declines to make a recommendation because the time limit has been exceeded. The written explanation shall be included in the OPA case file.

1 C. The written explanations required by Subsections A and B of this Section shall not
2 identify or divulge personal information about the subject officer or officers or anyone else
3 involved in the complaint and shall be subject to any applicable confidentiality requirements in
4 state or federal law. The explanations shall not affect any discipline decisions; as specified in
5 Seattle Municipal Code 3.28.810 Subsection F, the Chief of Police remains the final Police
6 Department decision maker in disciplinary actions.
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8 D. The written explanations required by Subsections A and B of this Section shall be
9 ~~((available))~~ provided to the Mayor and City Council ~~((on request))~~. The OPA Director shall
10 include summaries of these explanations ~~((from the relevant reporting period))~~ in the
11 ~~((semiannual))~~ reports required by Seattle Municipal Code 3.28.825. The summaries shall not
12 identify or divulge personal information about the subject officer or officers or anyone else
13 involved in the complaint and shall be subject to any applicable confidentiality requirements in
14 state or federal law.
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17 Section 5. Seattle Municipal Code Section 3.28.825 is amended as follows:

18 3.28.825 Reports.

19 A. The Director shall issue ~~((semiannual))~~ at least two reports per year to the Mayor and
20 City Council describing the work of the OPA and making recommendations for policy changes
21 as determined by the Director. ~~((The Director shall provide to the OPA Auditor and OPA Review
22 Board information necessary for their respective reporting functions as set forth in this chapter.
23 The OPA staff shall meet with community groups and recommend to the Chief of Police changes
24 in policy or areas where training bulletins are needed.))~~ Each year at least one of the Director's
25 reports shall report the following:
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1. The total number of complaints received by the Office of Professional Accountability;
 2. The number of complaints by classification and nature of allegation;
 3. The percentage of complaints resulting in each kind of finding, namely, sustained, not
4. sustained, unfounded, supervisory intervention or exonerated;
 4. The nature of disciplinary action taken in sustained cases;
 5. The geographic distribution of complaints;
 6. The racial, ethnic and gender distributions of complainants, as this information is
9. provided voluntarily by complainants;
 7. The racial, ethnic, gender, assignment and seniority distributions of officers who are
11. subjects of complaints;
 8. The number of officers who have received three or more sustained complaints within
14. one year; and
 9. The timeliness of OPA complaint handling.
- B. The OPA Director and OPA staff may meet with citizens and community groups to
17. solicit community input on policies and practices related to police accountability.
- C. The OPA Director shall make available to the OPA Auditor and OPA Review Board
19. information necessary for their respective auditing and reporting functions as set forth in this
21. chapter.

Section 6. Seattle Municipal Code Section 3.28.850 is amended as follows:

3.28.850 Office of Professional Accountability Auditor established.

A. There shall be an Office of Professional Accountability Auditor (hereinafter "OPA Auditor") who shall be appointed by the Mayor, subject to confirmation by the City Council, to

provide review and assessment of Office of Professional Accountability (hereinafter "OPA")
complaints and of Police Department policies and practices related to police accountability and
professional conduct. The OPA Auditor shall serve a term of ~~((two (2)))~~ three years and may be
reappointed to two ~~((2))~~ subsequent ~~((two (2)))~~ three year terms by the Mayor, subject to
confirmation by the City Council. No individual may serve more than three ~~((3) full two (2))~~
three year terms as OPA Auditor. ~~((Beginning on January 1, 2002, terms shall begin on January~~
~~1st of even numbered years, and run through December 31st of the following odd numbered~~
~~year.))~~ Should an OPA Auditor take office at any time after commencement of a regular term,
the expiration of that term shall remain unaffected. The OPA Auditor may be removed from
office for cause by the Mayor by filing a statement of reasons for removal with the City Council.
The OPA Auditor shall be compensated as provided by ordinance or by appropriation in the
City's annual budget.

B. The OPA Auditor should possess the following qualifications and characteristics at the
time of appointment and throughout his or her term:

1. A reputation for integrity and professionalism, as well as the ability to maintain a high
standard of integrity in the office;

2. A commitment to and knowledge of the need for and responsibilities of law
enforcement, as well as the need to protect basic constitutional rights of all affected parties;

3. A commitment to the statement of purpose and policies in this chapter;

4. A history of demonstrated leadership experience and ability;

5. The potential for gaining the respect of complainants, ~~((departmental))~~ Police
Department personnel, and the citizens of this City;

6. The ability to work effectively with the Mayor, City Council, City Attorney, ~~((Chief of the Department, Office of Professional Accountability Board, departmental personnel,))~~ Chief of Police, OPA, other Police Department personnel, OPA Review Board, other public agencies, private organizations, and citizens;

7. The ability, as shown by previous experience, to work with diverse groups and individuals; and

8. ~~((The ability to work effectively under pressure.))~~ The ability to maintain fairness and objectivity in an environment where controversy is common.

C. In addition to the qualifications and characteristics set forth in subsection B ~~((here in))~~ above, the OPA Auditor shall possess the following qualification: the OPA Auditor must be a graduate of an accredited law school and member in good standing of the Washington State Bar Association and, prior to appointment, have at least five ~~((5))~~ years of experience in the practice of law or in a judicially related field.

D. The Chief of Police shall cause a thorough background check of nominees for OPA Auditor identified by the Mayor and shall report the results to the Mayor.

Section 7. Seattle Municipal Code Section 3.28.855 is amended as follows:

~~((3.28.855 OPA Audit procedures and standards.~~

~~A. Audit of All Investigations of Complaints of Unnecessary or Excessive Force. The OPA Auditor shall audit all completed OPA case files involving complaints of unnecessary or excessive force. Before a case file involving a complaint of unnecessary or excessive force is referred to the subject officer's chain of command for review and recommendations, and no more~~

1 ~~than three (3) business days after the Office of Professional Accountability has completed its~~
2 ~~investigation, the Department shall forward a complete copy of the file to the OPA Auditor.~~

3 ~~B. Audit of All Investigations of Complaints Not Involving Unnecessary or Excessive~~
4 ~~Force Allegations. Each calendar year, the OPA Auditor shall audit all of the completed OPA~~
5 ~~case files involving complaints other than those involving unnecessary or excessive force. The~~
6 ~~Department shall notify the OPA Auditor of the completion of case files on a weekly basis. The~~
7 ~~case file shall be forwarded to the subject officer's chain of command for review and~~
8 ~~recommendations, if, within ten (10) business days of notification of completion, the OPA~~
9 ~~Auditor has not advised the Department s/he will audit the investigation. The OPA Auditor may~~
10 ~~audit a completed case file after referral to the subject employee's chain of command; provided,~~
11 ~~however, in such instance the OPA Auditor shall not request follow-up investigation.~~

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14 ~~C. The frequency of audits under this section shall be as determined by the OPA Auditor;~~
15 ~~provided, however, audits of completed case files shall take place at unscheduled intervals not to~~
16 ~~exceed ninety (90) days following initiation of the last audit.))~~

17 3.28.855 OPA Auditor's Authority and Responsibility

18 A. The OPA Auditor shall review OPA complaint classifications and complaint
19 investigations. Every week the OPA shall notify the Auditor of the complaint classifications
20 made and complaint investigations completed in the previous week, and shall make the case files
21 available to the Auditor. The Auditor may recommend to the OPA that it change a complaint
22 classification or further investigate a complaint, or, as specified elsewhere in this section, require
23 further investigation. If within 10 days after being notified that a case file has been completed
24 the Auditor has not advised the Department of concerns with the investigation, the OPA shall
25 forward the case file to the subject officer's chain of command for review and recommendations.
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1 The OPA Auditor may review a completed case file after the OPA has referred the case file to
2 the subject officer's chain of command, but in these instances the OPA Auditor shall not require
3 further investigation.

4 B. The OPA Auditor may audit any and all OPA records. The purpose of such audits is
5 to support the Auditor's recommendations on the thoroughness, fairness and timeliness of OPA
6 investigations, and on any other Police Department or City policies and practices related to
7 police accountability and police professional conduct. The Auditor shall issue public reports on
8 the results of such audits. The Auditor shall determine the topics, scope and frequency of such
9 audits after consulting at least annually with the OPA Director and OPA Review Board.

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11 ~~((D))~~C. OPA Auditor May ~~((Request))~~ Require Further Investigation of OPA Complaints.

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13 ~~((+))~~ The OPA Auditor shall use best efforts to complete audits under subsections A and
14 B of this section without unreasonably delaying review of the case file by the subject officer's
15 chain of command. After reviewing the file, the OPA Auditor may request the Office of
16 Professional Accountability ~~((, through the Chief of Police,))~~ to conduct further investigation.
17 The OPA Auditor shall provide a written statement to the ~~((Chief of Police))~~ OPA Director
18 identifying the reasons for his or her request for ~~((a follow-up))~~ further investigation. Criteria the
19 OPA Auditor should consider include but are not limited to: (1) whether witnesses were
20 contacted and evidence collected; (2) whether interviews were ~~((conducted on a thorough basis))~~
21 thorough; and (3) whether applicable OPA procedures were followed. In the event the ~~((Chief of~~
22 ~~Police))~~ OPA Director disagrees with this recommendation, he or she shall within five ~~((5))~~
23 days provide the OPA Auditor with a written ~~((statement of the grounds for this decision))~~
24 explanation of the reasons. After giving due consideration to the ((Chief's)) OPA Director's
25 explanation, the Auditor may require the OPA to conduct the specified further investigation.
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1 ~~((2. If the basis for the OPA Auditor's request for further investigation is that a relevant~~
2 ~~witness or witnesses were not contacted, relevant evidence was not collected, or an interview or~~
3 ~~interviews were not thorough, and the Chief of Police disagrees with the OPA Auditor's~~
4 ~~recommendation for further investigation, the OPA Auditor may refer the issue of further~~
5 ~~investigation to the OPA Review Board. The OPA Review Board shall decide whether the OPA~~
6 ~~shall conduct the further investigation requested by the OPA Auditor. In the event further~~
7 ~~investigation is ordered, the OPA Auditor may audit the file to ensure compliance with the OPA~~
8 ~~Review Board's decision. If the OPA Auditor finds that the Police Department has not complied~~
9 ~~with the OPA Review Board's decision, the OPA Auditor may submit the matter of compliance~~
10 ~~to the, OPA Review Board. The OPA Review Board shall decide whether the Department has~~
11 ~~complied. The OPA Review Board's decisions regarding further investigation and compliance~~
12 ~~therewith shall be final and binding.))~~

15 ~~((E))~~D. Secure Temporary Space. The Department shall, upon request of the OPA
16 Auditor, provide secure temporary space for the OPA Auditor to conduct the audits close to the
17 records to be reviewed.

18 ~~((F. Monthly Review of Contact Log and Complaint Records. The OPA Auditor shall~~
19 ~~review the OPA contact log and OPA complaint records at least monthly. If, after reviewing the~~
20 ~~OPA contact log and OPA complaint records, the OPA Auditor believes that a contact log~~
21 ~~complaint should be investigated further, or that a case that has been designated for a line referral~~
22 ~~should receive a full investigation by the OPA, the OPA Auditor may request the OPA, through~~
23 ~~the Chief of Police, to conduct a full investigation. The OPA Auditor shall provide a written~~
24 ~~statement to the Chief of Police identifying the reasons for his/her request for a full investigation.~~
25 ~~The Chief of Police, or his/her designee, shall consult with the OPA Auditor regarding the OPA~~
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Auditor's request, and shall promptly advise the OPA Auditor of the investigative action s/he intends to take.))

((G))F. OPA Auditor's Access to Records; Restriction on Access When Criminal Investigation Pending; Return of Records.

1. The OPA Auditor shall have access to all OPA files and records, ~~((including but not limited to: OPA files, line review reports and files, and OPA contact logs,))~~ provided, however, that the OPA Auditor shall not have access to files designated by the OPA as relating to an active criminal investigation of an officer until such time as the Department has given the subject officer written notification of the investigation. The OPA Director shall provide the OPA Auditor with quarterly status reports regarding OPA cases in which criminal investigations are also being undertaken. These status reports shall include the number of ongoing OPA criminal investigations and the month during which each investigation was originated, and the number of new criminal investigations initiated that quarter.

2. OPA files and records made available to the OPA Auditor are the property of the Police Department and shall not, by operation of this sub-chapter, become the property of the OPA Auditor. The OPA Auditor shall make every reasonable effort to maintain the security of files belonging to the Department while in the OPA Auditor's possession. Any requests made to the OPA Auditor for OPA files or records, whether through litigation discovery or pursuant to public disclosure, shall((;)) be referred to the Chief of Police for response.

3. Upon completion of an audit, the OPA Auditor shall return to the OPA all section files, reports, and records to which ~~((s/he))~~ he or she has been provided access pursuant to these audit procedures and standards. Following completion of an audit, the OPA Auditor may, however, continue to have access to closed OPA files.

1 ((H))G. OPA Auditor Access to Caseload, Workload and Procedural Information. The
2 OPA Auditor is authorized to request any information on OPA cases, workload, or procedures
3 that ((s/he)) he or she finds necessary in order to conduct an ongoing analysis of the
4 Department's OPA process. The Department shall ~~((make every reasonable effort to comply with~~
5 ~~the OPA Auditor's requests))~~ make the requested information available to the Auditor.
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8 Section 8. Seattle Municipal Code Section 3.28.860 is amended as follows:

9 3.28.860 OPA Auditor to prepare semiannual report.

10 The OPA Auditor shall prepare a semiannual report of his or her audit activities and
11 submit the report ~~((This report shall be forwarded))~~ to the City Council, Chief of Police, City
12 Attorney, Mayor, OPA Review Board, and City Clerk for filing as a public record. The OPA
13 Auditor's report shall be prepared in accordance with the following provisions:
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15 A. The OPA Auditor's report shall contain a general description of the files and records
16 reviewed, and should include, but not be limited to:

17 1. The number of cases reviewed by the OPA Auditor;

18 2. ~~((The number of follow-up investigations requested by the OPA Auditor, the number~~
19 ~~of follow-up investigations completed by the Department, and the number of follow-up~~
20 ~~investigation requests denied by the Department))~~ The number of and a description of OPA cases
21 in which the Auditor requested or required further investigation and a description of the OPA's
22 responses;
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24 3. ~~((The number of contact log cases and line-referral cases where the OPA Auditor~~
25 ~~recommended that full investigations take place, the number of such investigations completed by~~
26 ~~the Department, and the number of follow-up investigation requests denied by the Department))~~
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The number of and a description of OPA complaints for which the OPA Auditor requested reclassification or further investigation and a description of the OPA's responses;

4. A summary of issues, problems and trends noted by the OPA Auditor as a result of ~~((his/her))~~ his or her review;

5. Any recommendations that the Department consider additional officer training, including recommendations that the Department consider specialized training for IIS investigators;

6. Any recommendations the Department consider policy or procedural changes; and

7. ~~((The OPA Director's involvement in community outreach to inform citizens of the complaint process and the role of the Office of Professional Accountability.))~~ Any findings from audits of OPA records or the OPA Director's reports.

B. The OPA Auditor's report shall not contain any recommendations concerning the discipline of any particular police officer, nor shall the report comment upon or make any recommendation concerning potential civil or criminal liability of any employee, police officer, or citizen.

C. The OPA Auditor shall deliver a preliminary draft of his/her semiannual report to the OPA Director and Chief of Police for review and comment. The OPA Director and Chief of Police shall review and comment on the preliminary report within ~~((twenty (20)))~~ 10 working days after receipt of the report. The OPA Auditor shall submit the final report within ~~((thirty (30)))~~ 10 working days after receipt of the Director's and ~~((Chiefs))~~ Chief's comments. ~~((The OPA Auditor's final report shall be submitted no later than the thirtieth day of April and October of each year.))~~

1 ~~((D. The Chief of Police shall forward to the Mayor, City Council, City Attorney, OPA~~
2 ~~Review Board and the City Clerk within ~~((twenty (20)))~~ 10 working days of receipt of the OPA~~
3 ~~Auditor's final report the Chief's written comments on the report.))~~

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5 Section 9. Seattle Municipal Code Section 3.28.900 is amended as follows:

6 3.28.900 Office of Professional Accountability Review Board established.

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8 ~~((There is created an Office of Professional Accountability Review Board (hereinafter~~
9 ~~"OPA Review Board") to establish independent review of the Office of Professional~~
10 ~~Accountability ("OPA") complaint handling process in a manner that will have the confidence of~~
11 ~~the general public, police officers, and complainants; and to enhance the credibility of the Office~~
12 ~~of Professional Accountability and the OPA investigation process. The OPA Review Board shall~~
13 ~~not participate in the management of the day to day functions of the Department, which are the~~
14 ~~responsibility of the Chief of Police. The OPA Review Board shall consist of three (3) members.~~
15 ~~Two (2) members shall be considered a quorum.))~~

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17 A. There is created an Office of Professional Accountability Review Board (hereinafter
18 "OPA Review Board"). The purpose of the OPA Review Board is to review the quality of the
19 Office of Professional Accountability's (OPA) complaint handling process; to advise the City on
20 Police Department policies and practices related to police accountability and professional
21 conduct; and to organize and conduct public outreach on behalf of itself, the OPA and the OPA
22 Auditor; all to enhance the quality and credibility of the City's police accountability system and
23 thereby maintain public confidence in the professionalism and effectiveness of the Police
24 Department.

1 B. The OPA Review Board shall not participate in the investigation or disposition of
2 complaints to the OPA, and shall not seek to influence the course or outcome of specific OPA
3 complaint investigations or the discipline of specific police officers.

4 C. The OPA Review Board shall consist of seven members. Four members shall be
5 considered a quorum.

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8 Section 10. Seattle Municipal Code Section 3.28.905 is amended as follows:

9 3.28.905 Appointment of the OPA Review Board.

10 ~~((A. The City Council shall appoint the three (3) members of the OPA Review Board to~~
11 ~~provide review and assessment of the investigation of Office of Professional Accountability~~
12 ~~complaints. Members of the OPA Review Board shall serve staggered terms. Each member of~~
13 ~~the OPA Review Board shall serve a term of two (2) years; except that the first term of one (1) of~~
14 ~~the first appointees shall be one (1) year. Members may be reappointed to up to two (2)~~
15 ~~subsequent two (2) year terms by the City Council. No individual may serve more than three (3)~~
16 ~~full two (2) year terms as an OPA Review Board member. Should an OPA Review Board~~
17 ~~member take office at any time after commencement of a regular term, the expiration of that~~
18 ~~term shall remain unaffected. An OPA Review Board member may be removed from office for~~
19 ~~cause by the Council by filing a statement of reasons for removal. The OPA Review Board~~
20 ~~members shall be compensated as provided by ordinance or by appropriation in the City's annual~~
21 ~~budget.))~~

22 A. The City Council shall appoint the seven members of the OPA Review Board. The
23 first term of any member shall be no longer than two years. Members may be reappointed to up
24 to three subsequent two year terms; no individual may serve more than four terms. Members
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1 shall serve staggered terms such that no more than four members' terms shall expire in any year.

2 Should any member take office at any time after commencement of a regular term, the expiration

3 of that term shall remain unaffected. The City Council may remove a member from office for

4 cause by filing a statement of reasons for removal. Members shall be compensated as provided

5 by ordinance. The compensation of members and other resources necessary for the OPA Review

6 Board shall be appropriated in the budget of the Legislative Department.

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8 B. Each OPA Review Board member shall at the time of appointment and throughout his
9 or her term:

10 1. Have a reputation for integrity and professionalism, as well as the ability to maintain a
11 high standard of integrity in the office;

12 2. Have a commitment to and knowledge of the need for and responsibilities of law
13 enforcement, as well as the need to protect basic constitutional rights of all affected parties;

14 3. Have a commitment to the statement of purpose and policies in this chapter;

15 4. Have a history of demonstrated leadership experience and ability;

16 5. Have the potential for gaining the respect of complainants, departmental personnel,
17 and the citizens of this City;

18 6. Be able to work effectively with the City Council, departmental personnel, public
19 agencies, private organizations, and citizens;

20 7. Be able to work with diverse groups and individuals, as shown by previous experience;

21 8. ~~((The ability to work effectively under pressure.))~~ Be able to maintain fairness and
22 objectivity in an environment where controversy is common.

23 9. Be a high school graduate or recipient of a general equivalency diploma;

1 10. Be a United States citizen or lawfully authorized for employment in the United
2 States;

3 11. Be at least ~~((twenty-one (21)))~~ 21 years of age;

4 12. Not have been convicted of or plead guilty to a felony, crime of violence, or offense
5 involving moral turpitude, or any plea thereto; and

6 13. Be able to comply with the appearance of fairness doctrine.

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8 In addition, at any given time, at least one ~~((4))~~ member of the OPA Review Board shall
9 be a graduate of an accredited law school and a member in good standing of the Washington
10 State Bar Association; ~~((at least one (1) member shall have at least five (5) years of experience in~~
11 ~~the field of law enforcement; and))~~ at least one ~~((4))~~ other member shall have significant
12 experience in community involvement, organizing and outreach; at least one other member shall
13 have at least five years experience as a sworn law enforcement officer; and at least one other
14 member shall have at least five years experience in a field or fields related to law enforcement or
15 criminal justice.

16
17 C. The Chief of Police shall cause a thorough background check of nominees for OPA
18 Review Board identified by the Council and shall report the results to the Council.

19
20 D. The OPA Review Board shall annually elect one of its members to be the Chair of the
21 OPA Review Board. In the event that all members of the Review Board are newly appointed,
22 the City Council may appoint an interim Chair until the Review Board can conduct the election.

23
24 Section 11. Seattle Municipal Code Section 3.28.910 is amended as follows:

25
26 ~~((3.28.910 OPA Review Board to prepare semiannual report.~~

1 ~~The OPA Review Board shall prepare and submit a semiannual report to the City~~
2 ~~Council, Chief of Police, City Attorney, Mayor, and City Clerk for filing as a public record. The~~
3 ~~OPA Review Board's report shall be prepared in accordance with the following provisions:~~

4 ~~A. The OPA Review Board shall review and report on the implementation of the Office~~
5 ~~of Professional Accountability.~~

6 ~~B. The OPA Review Board's report shall contain a general description of the files and~~
7 ~~records reviewed, and should include, but not be limited to:~~

- 9 ~~1. The number of closed, completed cases reviewed;~~
10 ~~2. The total number of complaints received by the Office of Professional Accountability;~~
11 ~~3. The number of complaints by category and nature of allegation;~~
12 ~~4. The percentage of complaints sustained and not sustained;~~
13 ~~5. The nature of disciplinary action taken in sustained cases;~~
14 ~~6. Patterns of complaints including:~~
15 ~~a. Type of complaint,~~
16 ~~b. Geographic area of complaint,~~
17 ~~c. Race, ethnicity, gender of complainants,~~
18 ~~d. Race, ethnicity, gender, assignment, seniority of officer(s) who is/are subject of~~
19 ~~complaint;~~
20

21 ~~7. The number of officers who have received three (3) or more sustained complaints~~
22 ~~within one (1) year;~~
23

24 ~~8. The number of follow-up investigations requested by the OPA Auditor, the number of~~
25 ~~follow-up investigations completed by the Department, and the number of follow-up~~
26 ~~investigation requests denied by the Department;~~
27
28

1 ~~9. The number of contact log cases and line referral cases where the OPA Auditor~~
2 ~~recommended that full investigations take place, the number of such investigations completed by~~
3 ~~the Department, and the number of follow-up investigation requests denied by the Department;~~

4 ~~10. A summary of issues, problems and trends noted by the OPA Review Board as a~~
5 ~~result of their review;~~

6 ~~11. Any recommendations that the Department consider additional officer training,~~
7 ~~including recommendations that the Department consider specialized training for investigators;~~

8 ~~12. Any recommendations that the Department consider policy or procedural changes;~~
9 ~~and~~

10 ~~13. A Review of the OPA Director's involvement in community outreach to inform~~
11 ~~citizens of the complaint process and the role of the Office of Professional Accountability.~~

12 ~~C. The OPA Review Board's report shall not contain any recommendations concerning~~
13 ~~the discipline of any particular police officer, nor shall the report comment upon or make any~~
14 ~~recommendation concerning potential civil or criminal liability of specific employees, police~~
15 ~~officers, or citizens.~~

16 ~~D. The OPA Review Board's report shall be forwarded to the President of the City~~
17 ~~Council, the Chair of the City Council's Public Safety Committee, Mayor, City Attorney and~~
18 ~~City Clerk no later than the thirtieth day of June and December of each year.))~~

19 3.28.910 OPA Review Board Responsibility

20 A. The OPA Review Board shall review the OPA's complaint handling process. Based
21 on its review of OPA complaint forms and files on closed OPA complaints, and on the Review
22 Board's public outreach and research on best practices, the Review Board shall assess the
23 apparent fairness, thoroughness and timeliness of the OPA complaint handling process as a

1 whole. The Review Board shall not comment on the discipline of any officer or lack thereof, or
2 on the liability of anyone involved in a specific complaint. The Review Board shall present its
3 assessments of the OPA's complaint handling process in semiannual reports to the City. These
4 reports shall include a general description of the OPA files and records reviewed.

5 B. The OPA Review Board shall organize and conduct public outreach on behalf of
6 itself, the OPA and the OPA Auditor. The Review Board shall solicit public comments on the
7 fairness, thoroughness and timeliness of the OPA complaint handling process and on the
8 professional conduct of Seattle police officers. The Review Board shall invite the OPA, OPA
9 Auditor and Police Department to participate in its outreach efforts.

11 C. The OPA Review Board shall advise the City on Police Department policies and
12 practices related to police accountability and professional conduct. The Review Board shall base
13 its recommendations on its review of the OPA complaint handling process and of the OPA
14 Director's and OPA Auditor's reports, on any public comments it has received, and on its own
15 research on national trends and best practices in police accountability and civilian oversight of
16 law enforcement. The Review Board shall present its recommendations in its semiannual
17 reports.

19 D. The OPA Review Board shall recommend to the OPA Auditor topics for the
20 Auditor's review of Police Department policies and practices related to police accountability and
21 professional conduct.

23 E. The OPA Review Board shall submit its semiannual reports to the City Council,
24 Mayor, Chief of Police, City Attorney and City Clerk.

26
27 Section 12. Seattle Municipal Code Section 3.28.915 is deleted as follows:
28

1 ~~((3.28.915 OPA Review Board to meet with City Council.~~

2 ~~The OPA Review Board shall present their report semiannually to the City Council.))~~

3
4 Section 13. Any act consistent with the authority of this ordinance taken after passage of
5 this ordinance is hereby ratified and confirmed.

6
7
8 Section 14. This ordinance shall take effect and be in force 30 days from and after its
9 approval by the Mayor, but if not approved and returned by the Mayor within 10 days after
10 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

1
2 Passed by the City Council the ____ day of _____, 2008, and
3 signed by me in open session in authentication of its passage this
4 ____ day of _____, 2008.

5
6
7 _____
8 President _____ of the City Council

9 Approved by me this ____ day of _____, 2008.

10
11 _____
12 Gregory J. Nickels, Mayor

13
14 Filed by me this ____ day of _____, 2008.

15
16 _____
17 City Clerk

18 (Seal)

19 ta

20
21
22 Form revised February 6, 2008

23
24 **FISCAL NOTE FOR NON-CAPITAL PROJECTS**

25
26 Department:

27 Contact Person/Phone:

28 DOF Analyst/Phone:

Legislative	Peter Harris / 684-8368	n.a.
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Legislation Title:

AN ORDINANCE relating to the Office of Professional Accountability, Office of Professional Accountability Auditor and Office of Professional Accountability Review Board; amending Seattle Municipal Code Chapter 3.28 Subchapters VII, VIII and IX; and ratifying and confirming certain prior acts.

- Summary of the Legislation:

This ordinance amends the Municipal Code to implement recommendations made by the 2007 Police Accountability Review Panel and to clarify the roles of and relationships among the Office of Professional Accountability (OPA), OPA Auditor and OPA Review Board. Among the changes are these:

The OPA Director shall attend all employee due process hearings (a.k.a. "Loudermill hearings") concerning possible discipline resulting from OPA recommendations.

The OPA Director shall directly make recommendations to the Mayor and Council regarding OPA resources.

If the OPA Director recommends that a complaint be sustained and the Police Chief decides not, the Chief shall make a written statement of the reasons for his decision.

Every year the OPA Director shall directly report statistical information that formerly was to be obtained from the OPA and reported by the Review Board. The Auditor and Review Board may audit and review documentation for this information.

The Auditor's authority and responsibility to review OPA investigations before the OPA makes final decisions and to audit OPA records are clarified.

The Auditor may require further investigation of OPA complaints. The need for the Auditor to appeal denied requests for further investigation to the Review Board is eliminated.

The purpose of the Review Board is clarified and the size of the Review Board is increased from three members to seven.

The Review Board shall review the OPA's complaint handling process, organize and conduct public outreach on behalf of itself and the OPA Director and Auditor, advise the City on Police Department policies and procedures related to police accountability and professional conduct, and recommend topics for the Auditor's review.

- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

The Police Accountability Review Panel concluded in its January 2008 Final Report that the general structure of the City's police accountability system should continue, but that overlapping responsibilities among and a lack of clarity in the roles of the OPA, Auditor and Review Board undermine the effectiveness, transparency and accountability of the police accountability system as a whole. Among the major recommendations of the Police Accountability Review Panel were that the role and duties of the OPA Auditor should be clarified and expanded, that the OPA Director, OPA Auditor and OPA Review Board should agree on areas that will be the focus of enhanced review by the Auditor, and that the Review Board should be the primary link between the community and the police accountability system. The City has reached a collective bargaining agreement with the Seattle Police Officers' Guild that provides for the implementation of the Panel's recommendations.

- *Please check one of the following:*

 This legislation does not have any financial implications. *(Stop here and delete the remainder of this document prior to saving and printing.)*

 x **This legislation has financial implications.** *(Please complete all relevant sections that follow.)*

Notes: This ordinance will require an increase in stipends, consulting services and other resources for the OPA Review Board.

The cost of the Review Board is covered by the Legislative Department budget. In 2008 the budget for the Review Board within the Legislative Department is \$49,504. The Department can cover the 2008 cost of increasing the Review Board from three to seven members within the total existing Departmental budget. Increasing the Review Board members from three to seven and increasing the Board's community outreach activities will require an additional \$53,000 in 2009 and beyond. This increase will be included in the Department's 2009-2010 budget submittal.

Appropriations: *This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation, please provide details in the Notes section below.*

Fund Name and Number	Department	Budget Control Level*	2008 Appropriation	2009 Anticipated Appropriation
TOTAL				

*See budget book to obtain the appropriate Budget Control Level for your department.

Notes: This ordinance itself does not change any appropriations.

Anticipated Revenue/Reimbursement: Resulting From This Legislation: *This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.*

Fund Name and Number	Department	Revenue Source	2008 Revenue	2009 Revenue
TOTAL				

Notes:

Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact: ***This table should only reflect the actual number of positions affected by this legislation. In the event that positions have been, or will be, created as a result of other legislation, please provide details in the Notes section below the table.***

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2008 Positions	2008 FTE	2009 Positions*	2009 FTE*
TOTAL							

* 2009 positions and FTE are total 2009 position changes resulting from this legislation, not incremental changes. Therefore, under 2009, please be sure to include any continuing positions from 2008.

Notes:

- **Do positions sunset in the future?** (If yes, identify sunset date):

Spending/Cash Flow: This table should be completed only in those cases where part or all of the funds authorized by this legislation will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital

projects). Details surrounding spending that will occur in future years should be provided in the Notes section below the table.

Fund Name & #	Department	Budget Control Level*	2008 Expenditures	2009 Anticipated Expenditures
TOTAL				

* See budget book to obtain the appropriate Budget Control Level for your department.

Notes:

- What is the financial cost of not implementing the legislation?** (Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)

None.

- What are the possible alternatives to the legislation that could achieve the same or similar objectives?** (Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)

None.

- Is the legislation subject to public hearing requirements:** (If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)

No.

- Other Issues** (including long-term implications of the legislation):

Please list attachments to the fiscal note below:

[Yellow Check-Off List](/~ordpics/116259YS.pdf)